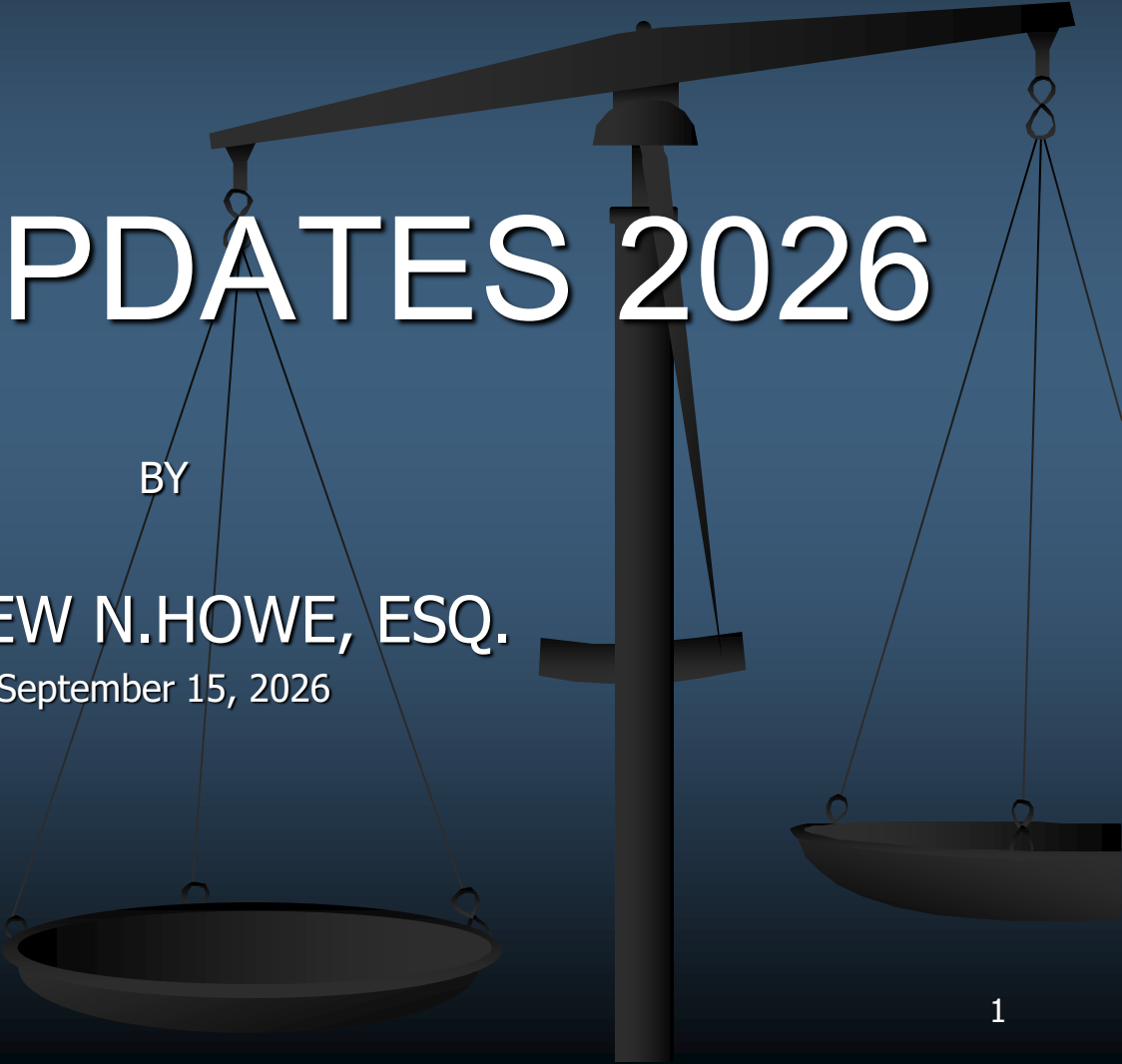


LEGAL UPDATES 2026



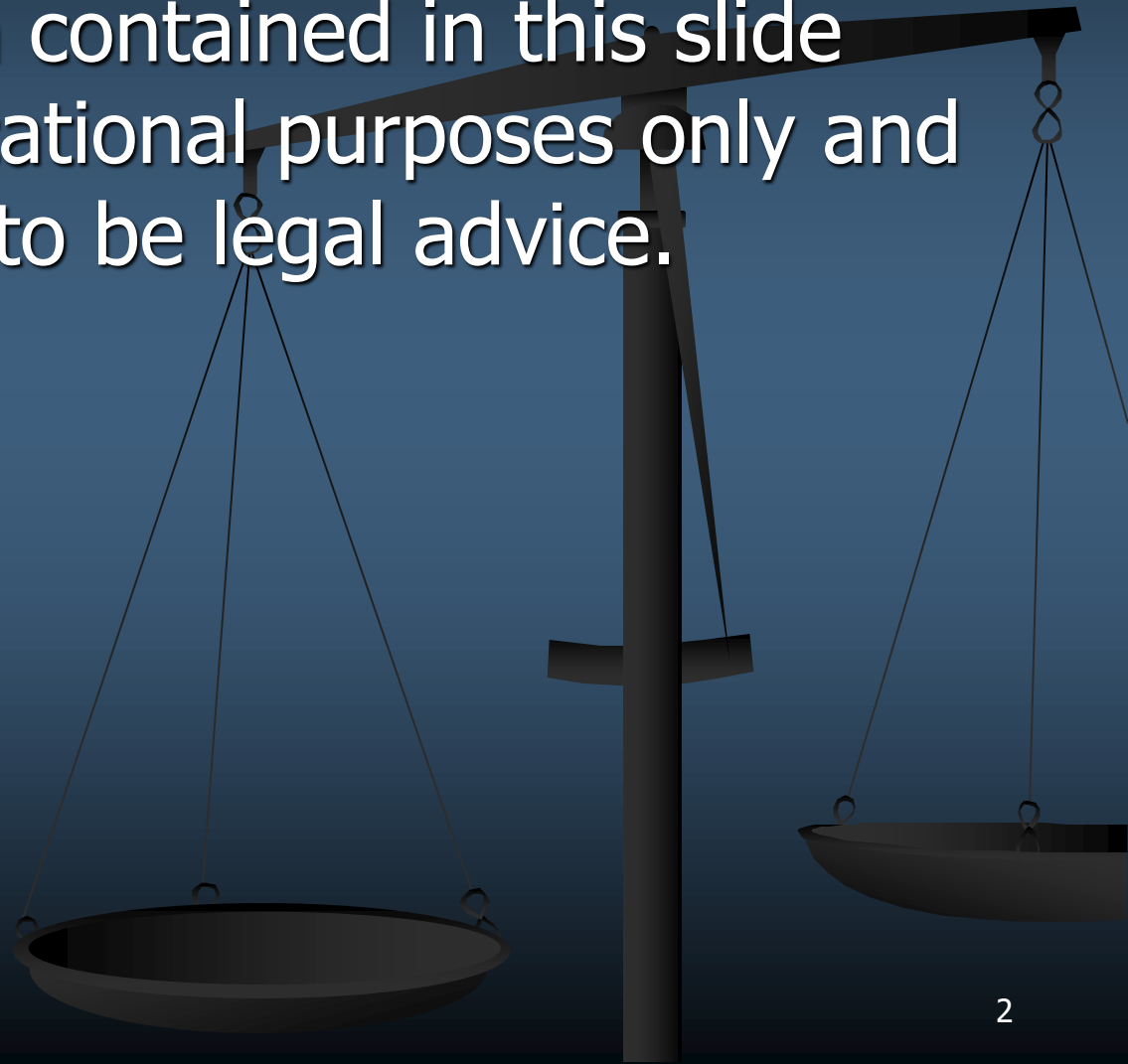
BY

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Introduction

- The information contained in this slide deck is for educational purposes only and is not intended to be legal advice.



U.S. SUPREME COURT

- *Trump v. Slaughter* (6/29/2026)
 - *Issue:* Whether the President lawfully removed FTC Commissioner Slaughter without cause?
 - *Facts:* In 2025, despite the long standing 1935 decision *Humphrey's Executor v. United States* which allowed Congress to protect heads of certain independent agencies from removal without cause, the President removed the Commissioner without cause and litigation commenced.

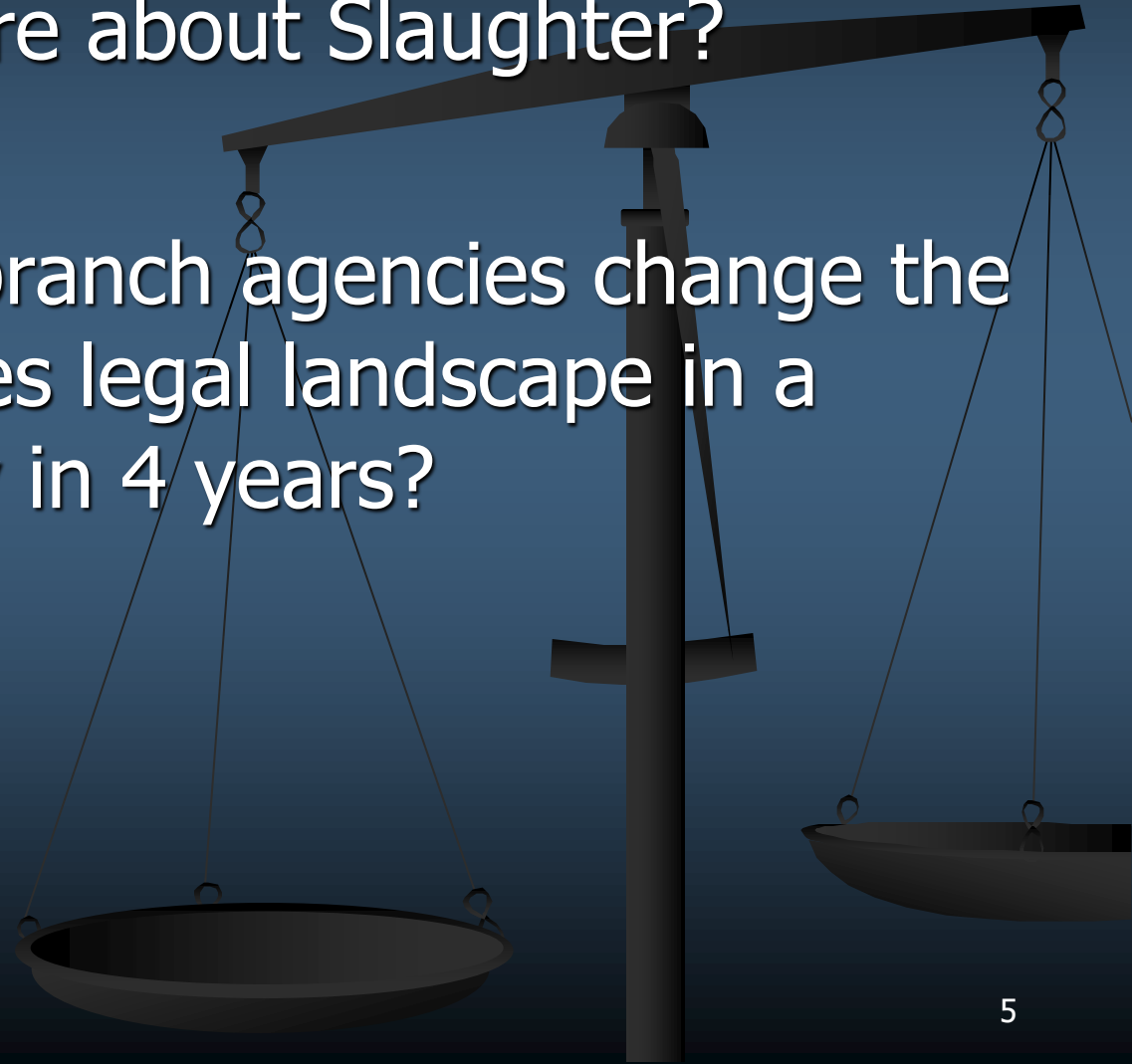
U.S. SUPREME COURT

Trump v. Slaughter, con't

- *Decision:* The Supreme Court struck down the long standing precedent of *Humphrey's Executor*, ruling that the President must be able to appoint and remove the leadership of the agencies in the Executive Branch.
- *Impact to you:* This decision could cause the replacement of heads of federal agencies each Presidential term seriously impacting efficiency and continuity. Their decision is consistent with this Court's current rulings involving the Constitution.

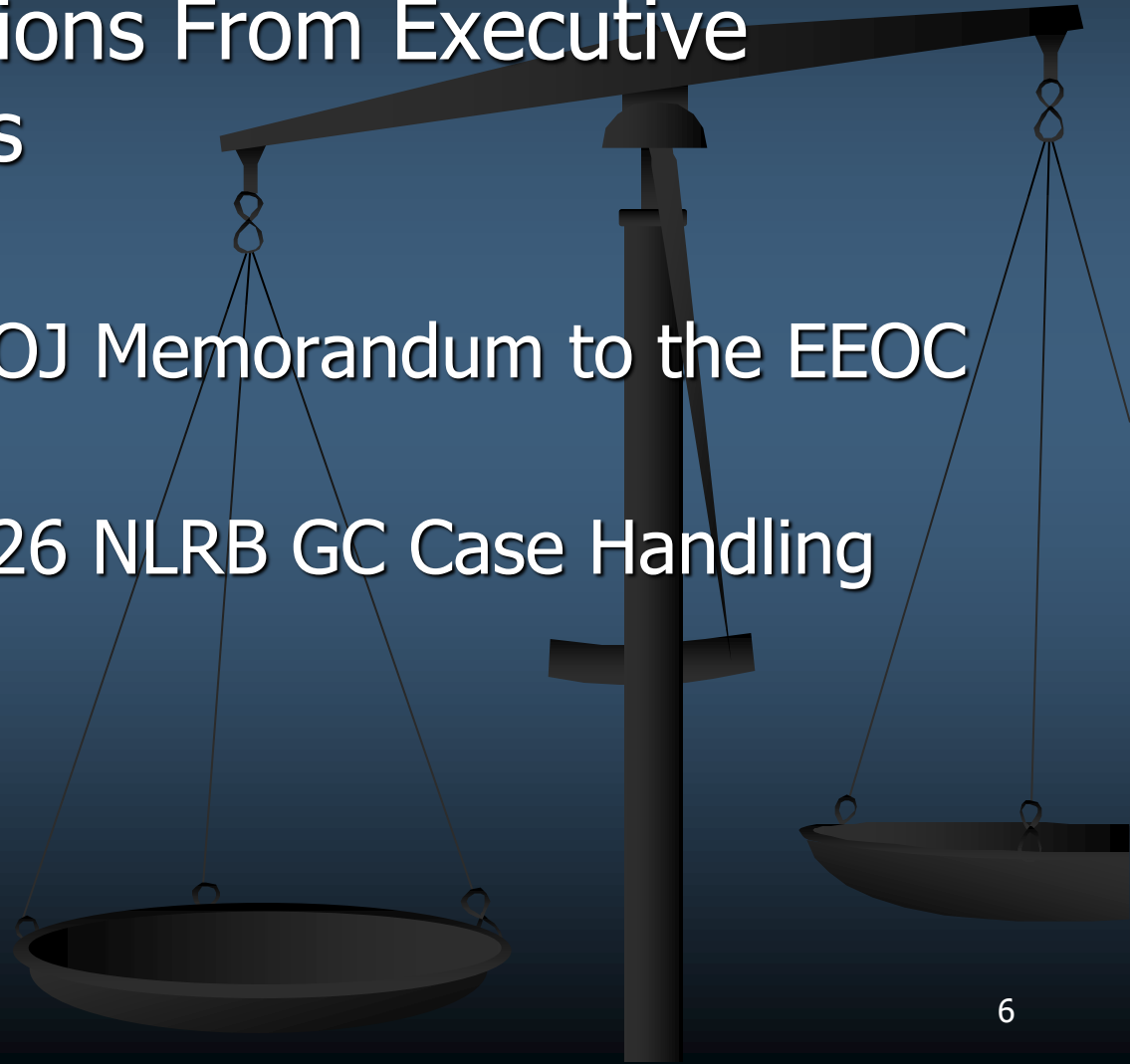
Question

- Do we really care about Slaughter?
- Can executive branch agencies change the human resources legal landscape in a meaningful way in 4 years?



Answer

- Two Recent Actions From Executive Branch Agencies
 - June 9, 2026 DOJ Memorandum to the EEOC Chair;
 - February 26, 2026 NLRB GC Case Handling Guidance



June 9, 2026 DOJ Memo to EEOC

- DOJ Challenges EEOC's Authority to enforce federal anti-discrimination laws utilizing a disparate impact theory.
- Memorandum asserts that discrimination under these laws is proven by intent and disparate impact can result in liability without ever proving intent.
- The DOJ therefore asserts that the EEOC's attempted enforcement based on disparate impact theories are unconstitutional and should cease.

February 27, 2026 NLRB GC 26-03

- On February 27, 2026, NLRB General Counsel issued a memo to the Regional Directors with the subject being “Case Handling Guidance.”
- Highlights from that memo include:
 - not revisiting past decisions (thereby allowing some stability in precedent for NLRB law);
 - emphasizing settlements and not litigation for purported violations of the NLRA;
 - Reduced emphasis of cases involving employer rules in workplace including handbooks.

Third Circuit Court of Appeals

- *Richter v. Duquesne University et al* (3d Cir. 1/27/2026).
 - *Issue:* Whether trial court properly granted summary judgment and dismissed Plaintiff's age discrimination and retaliation claims on summary judgment?
 - *Facts:* Duquesne U. hired Plaintiff Richter in 2015 as a gift officer which was the job he held until his termination in August of 2022. He was promoted twice at ages 60 and 61 but terminated at 62.

Third Circuit Court of Appeals

■ *Miller:*

- *Facts con't:* In July 2021 James Miller (age 57) was hired to run Plaintiff's department and in 2022 he restructured that department resulting in Plaintiff's donor portfolio being reduced.
- In Spring of 2022, Plaintiff falsely accused a coworker of taking credit for one of his donor's gift of 50K.

Third Circuit Court of Appeals

- *Richter con't:*
- Shortly thereafter Plaintiff complained to twice to HR about unfair treatment but he never mentions age. In April of 2022.
- Plaintiff had several performance issues but was separated for violating the school naming rights policy.
- He filed Age and Retaliation claims

Third Circuit Court of Appeals

- *Richter con't:*
- Age claim failed for lack of comparator evidence, specifically evidence of younger employees being treated more favorably.
- First, retaliation claim failed because three-month gap between his complaint and his termination.
- second, a bona fide reason existed for termination.
- Impact to you: The courts are attacking age claims right now.

Third Circuit Court of Appeals

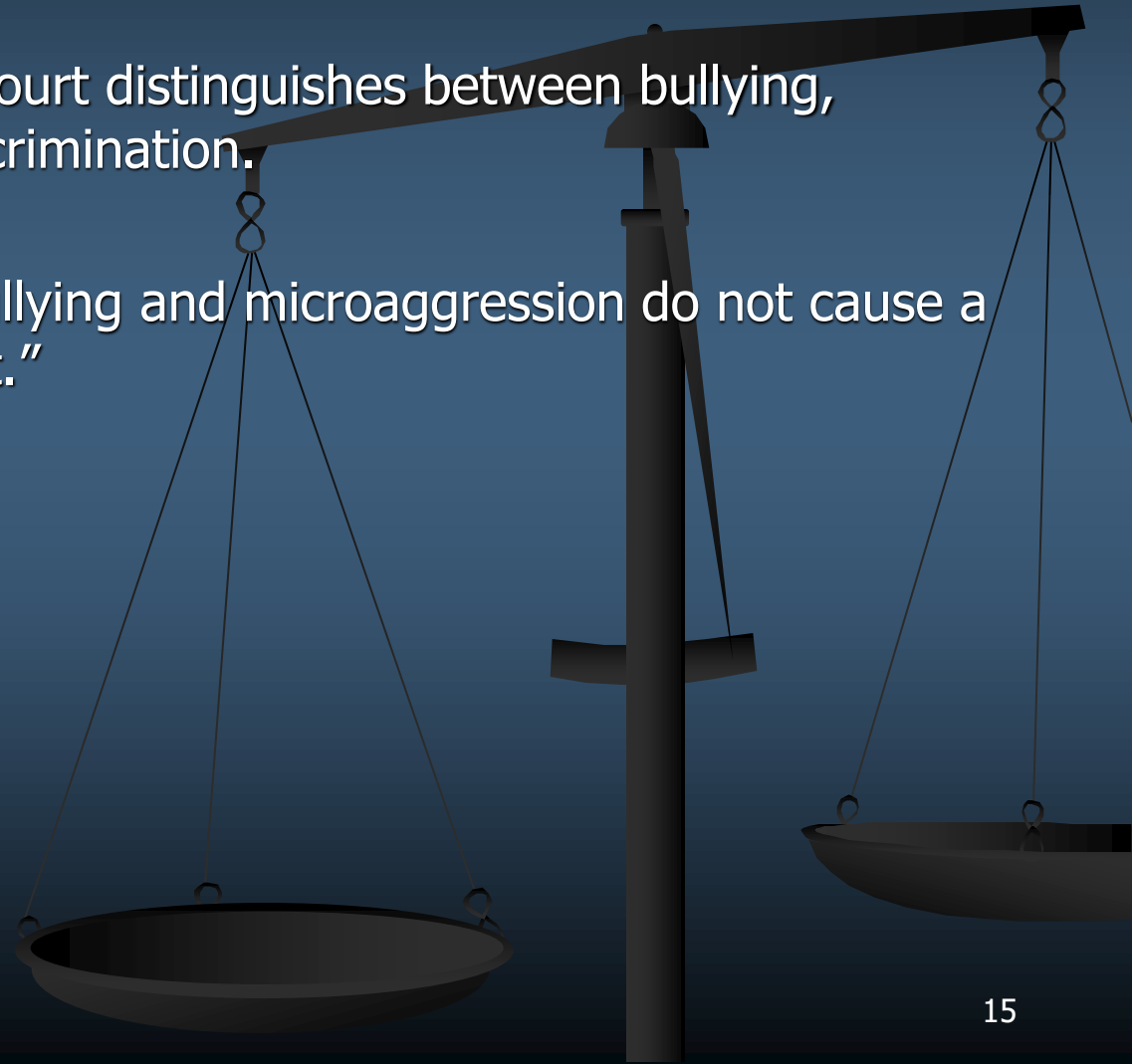
- *Gabriel v. DSM Biomedical, Inc.* (3d Cir. 8/13/2026)
 - *Issue:* Whether a stressful and intense workplace is equivalent to a hostile work environment?
 - *Facts:* Plaintiff worked at Defendant's Biomedical facility and was in charge of safety. Plaintiff, who was African American, clashed with his European senior leadership and claims he felt targeted because of his race, describing his meetings with his "boss" as award and giving him weird looks.

Third Circuit Court of Appeals

- *Gabriel* con't: internal investigation revealed head of safety was rude and intimidating toward Plaintiff but not racist.
- Then he clashed with his new boss on a customer call and felt betrayed. The company offered him a 400K bonus but he refused and instead referred them to the song "Rat in mi kitchen"
- Both claims failed for lack of evidence and lack of adverse action.

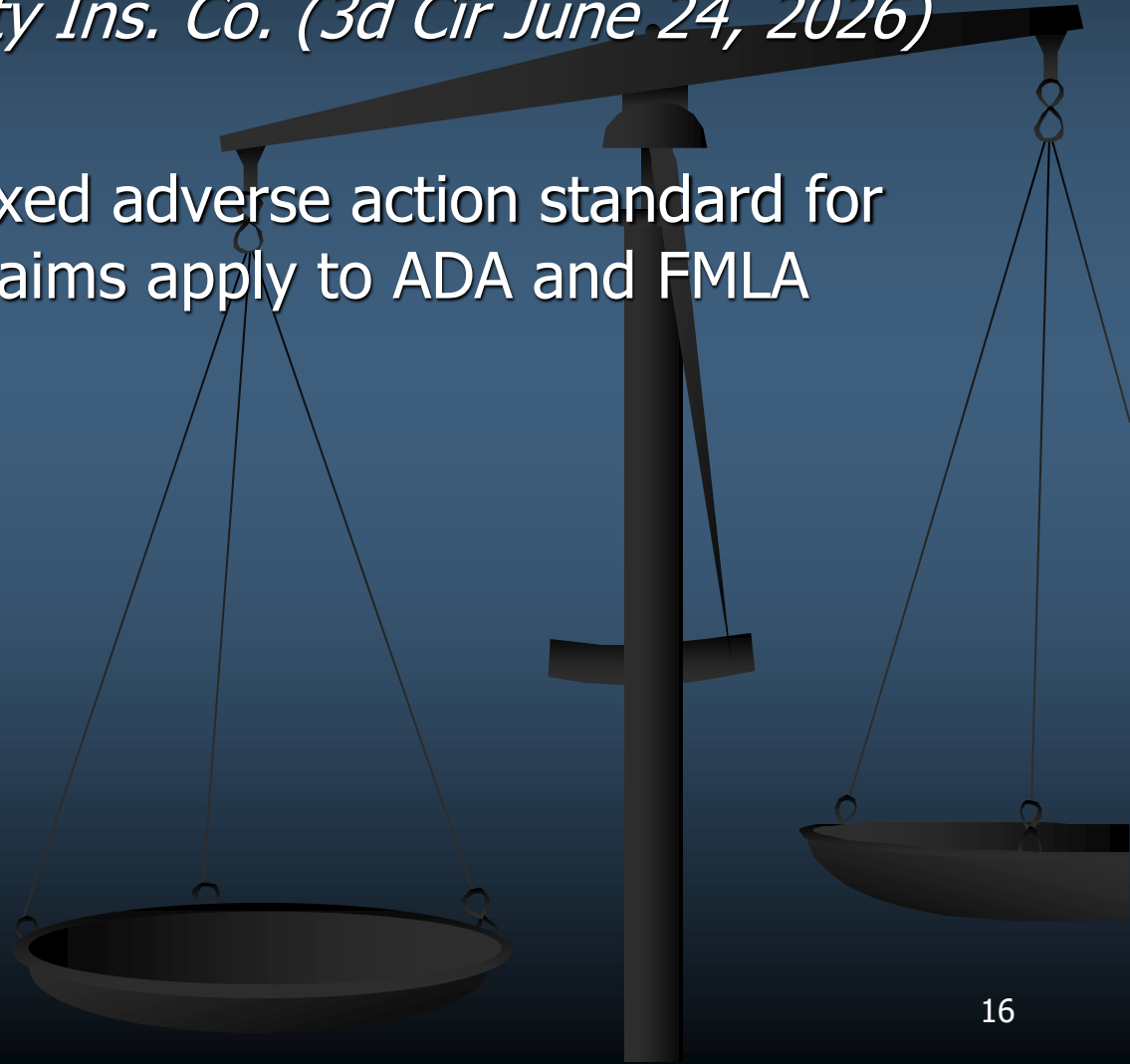
Third Circuit Court of Appeals

- *Gabriel impact to you:* Court distinguishes between bullying, workplace stress and discrimination.
- “Sporadic instances of bullying and microaggression do not cause a hostile work environment.”



Third Circuit Court of Appeals

- *Steidle v. U.S. Liability Ins. Co. (3d Cir June 24, 2026)*
- *Issue:* Does the relaxed adverse action standard for Title VII retaliation claims apply to ADA and FMLA retaliation claims?



Third Circuit Court of Appeals

- *Steidle Con't*: Plaintiff was marine vet who developed PTSD and other post war psychological afflictions causing him to take several leaves during his employment as a claims adjuster. After one leave he received a lower raise and bonus amount and argued adverse action in retaliation for leaves taken.

Third Circuit Court of Appeals

Steidle con't:

The Court adopted for the first time the lower adverse action standard to establish a retaliation claim under the ADA or FMLA. Previously that lower standard only applied in Title VII cases. In this case, the Court found a lower than expected raise or smaller bonus is enough for adverse action in retaliation context.

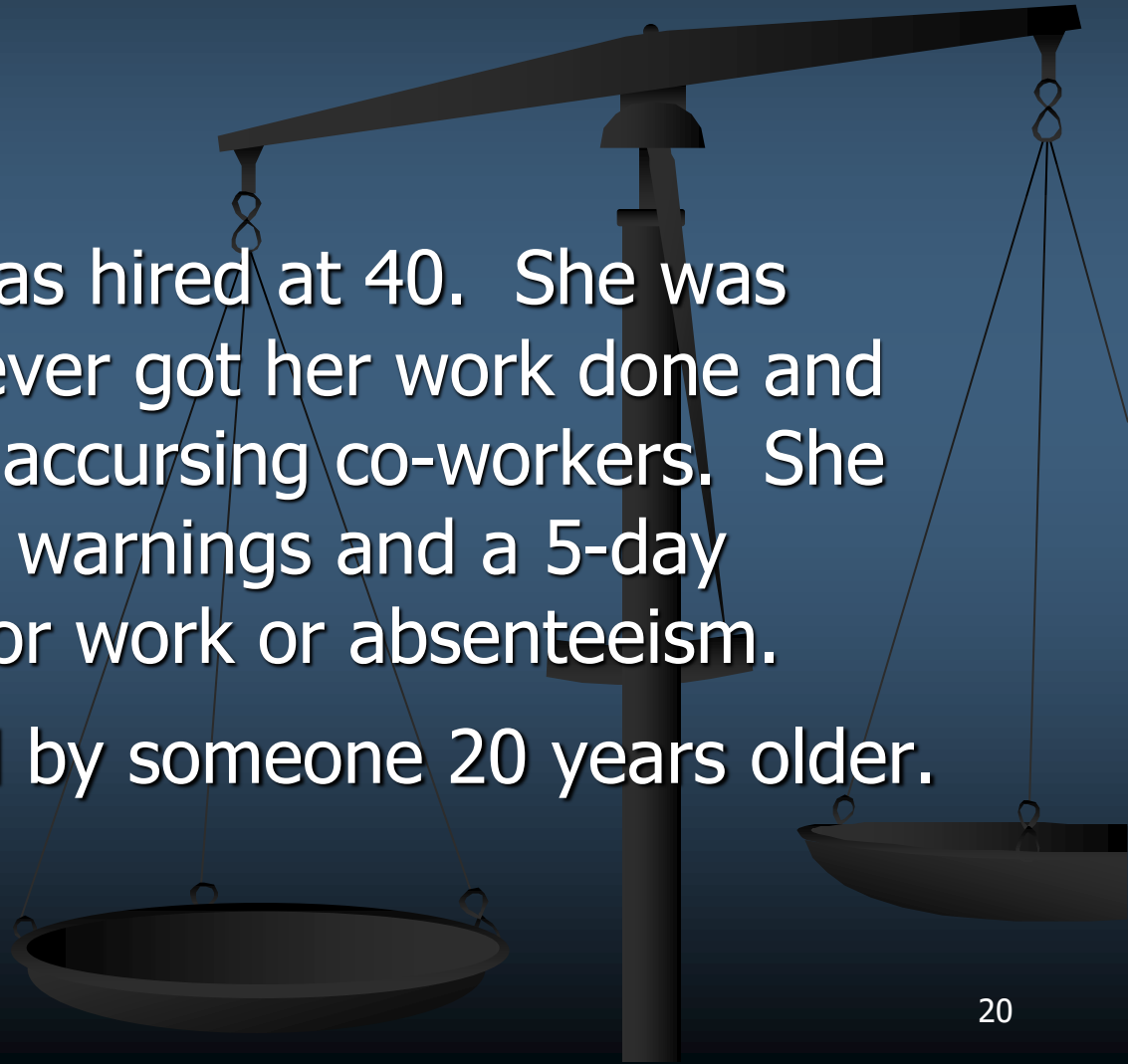
Impact to you: Be careful when assessing as potential retaliation claim

Third Circuit Court of Appeals

- *Walega v. Macgregor et. Al* (3d. Cir. 4/7/2026).
 - *Issue:* Whether she could successfully assert an age claim?
 - *Facts:* Plaintiff hired at 40 years old and had performance issues from day one. She spent more time complaining than working. After being warned and given a last chance agreement she was terminated for poor performance.

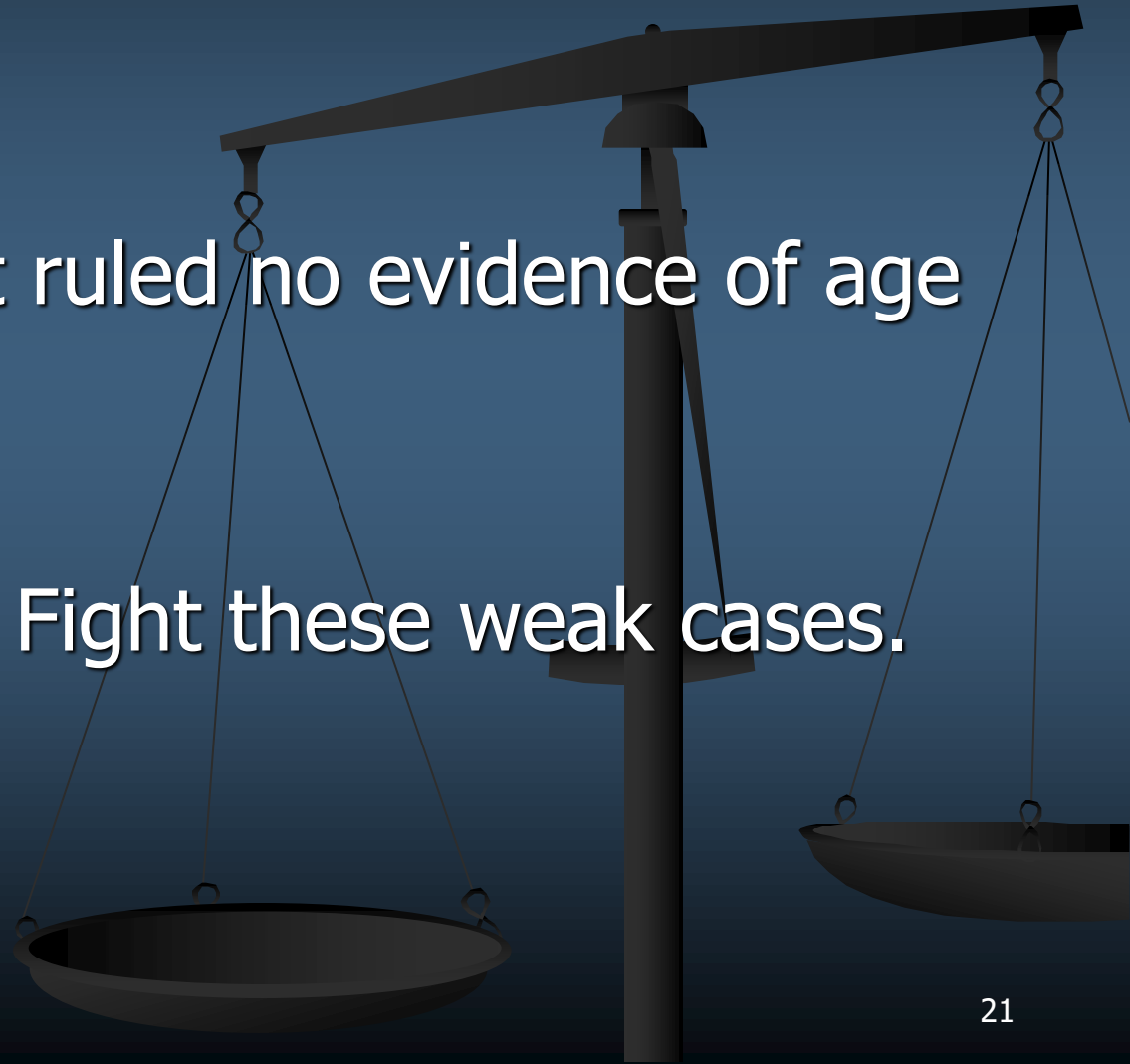
Third Circuit Court of Appeals

- *Walega con't:*
- *Facts:* Plaintiff was hired at 40. She was constantly late, never got her work done and spent time falsely accusing co-workers. She received 3 written warnings and a 5-day suspension for poor work or absenteeism.
- She was replaced by someone 20 years older.



Third Circuit Court of Appeals

- *Walega con't:*
- *Decision:* Court ruled no evidence of age discrimination.
- *Impact to you:* Fight these weak cases.



Third Circuit Court of Appeals

- *Lynn v. Bank of NY Mellon* (3d. Cir. 7/6/2026).
 - *Issue:* Whether summary judgment was proper to dismiss Plaintiff's age and retaliation claims?
 - *Facts:* Plaintiff was employed from 2019 to 2021 and during that time ended up having issued with his supervisor about the BLM movement. Ultimately his supervisor decided to terminate Lynn.

Third Circuit Court of Appeals

- Issues in case: 1) What inference exists of discrimination when the alleged perpetrator of the discrimination hired the plaintiff two years before?
- 2) Does an adverse action occurring 13 days after protected activity raise a presumption of retaliation?

END!

- If you would like an e-mail copy of this Power Point please see SHRM website or contact SHRM Disclaimer: This presentation is not intended to be construed as legal advice and cannot be relied upon as such.
- Thank you!!